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 7 Attorneys for Defendants Kyan Flynn,
 Mechelle Bonilla and Carlyn Lindsten

8 UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF
 9 CALIFORNIA

10
 11 CHAD MCKINNEY, an individual,
 Plaintiff,

12 v.

13 APOLLO GROUP, INC.,
 14 UNIVERSITY OF PHOENIX, a
 Corporation, MECHELLE
 15 BONILLA, an Enrollment Manager
 at UNIVERSITY OF PHOENIX,
 KYAN FLYNN, Director of
 16 Enrollment at UNIVERSITY OF
 PHOENIX, APRIL ALCORN, an
 Employees Relations Consultant at
 UNIVERSITY OF PHOENIX,
 17 CARLYN LINDSTEN, Associate
 Director of Enrollment at
 UNIVERSITY OF PHOENIX

18
 19 Defendants

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CASE NO. 07-CV-2373 WQH CAB

**DECLARATION OF NATHAN W.
 HICKS IN SUPPORT OF KYAN
 FLYNN, MECHELLE BONILLA
 AND CARLYN LINDSTEN'S
 MOTION TO DISMISS
 PLAINTIFF'S COMPLAINT, OR, IN
 THE ALTERNATIVE, MOTION
 FOR MORE DEFINITE
 STATEMENT**

[FRCP 12(b)(2); 12(b)(5); 12(b)(6); 12(e).]

**NO ORAL ARGUMENT UNLESS
 REQUESTED BY THE COURT**

Date: October 20, 2008

Time: 11:00 a.m.

Courtroom: 4

Judge: Hon. William Q. Hayes

DATE OF FILING: December 19, 2007

1 I, Nathan W. Hicks, declare and state as follows:

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4 1. I am an attorney licensed to practice law before all courts of the State
5 of California and I am a member of the law firm of Snell & Wilmer, attorneys of
6 record for defendants Kyan Flynn, Mechelle Bonilla and Carlyn Lindsten (the
7 "Individual Defendants") in this matter. I have personal knowledge of the matters
8 set forth in this declaration, and if called upon as a witness, I could competently
9 testify to them.

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11 2. On July 22, 2008, the Court issued an order (the "Order") setting aside
12 plaintiff Chad McKinney's ("McKinney") entry of default against Alcorn and
13 requiring him to re-serve all of the named defendants in this matter or, alternatively
14 obtain a waiver of service from all of the named defendants in this matter. A true
15 and correct copy of the Order is attached as Ex. 1.

16
17 3. On August 1, 2008, I sent McKinney a letter notifying him of the
18 Order and inquiring if it was intent to obtain a waiver of service from the
19 defendants and to contact me about this issue. A true and correct copy of the
20 August 1, 2008, correspondence I sent to McKinney is attached as Ex. 2. I did not
21 receive a response from McKinney regarding this issue.

22
23 4. On or about October 18, 2007, plaintiff, Chad McKinney
24 ("McKinney"), filed a Notice of Charge of Discrimination ("Charge") with the
25 Equal Employment Opportunity Commission ("EEOC") alleging Apollo Group,
26 Inc. engaged in retaliation against him in violation of Title VII of the Civil Rights
27 Act of 1964, as amended. On November 9, 2007, the EEOC sent a Dismissal and
28 Notice of Rights in response to McKinney's Charge. True and correct copies of

1 McKinney's Charge and the EEOC's Notice of Dismissal as obtained from the
2 EEOC are attached as Exs. 3 and 4.

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4 I declare under penalty of perjury under the laws of the State of California
5 that the foregoing is true and correct.

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7 Dated: September 9, 2008

s/Nathan Hicks

Nathan W. Hicks

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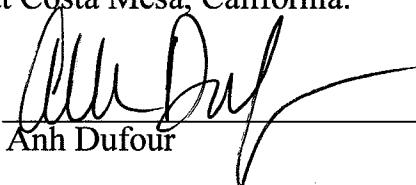
Snell & Wilmer
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LAW OFFICES
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Costa Mesa, California 92626-7689
(714) 427-7000

1 **PROOF OF SERVICE**2 **McKinney v. Apollo Group, Inc., et al.**
3 **USDC, Southern – Case No. 07-CV-2373**4 I am employed in the County of Orange, State of California. I am over the age of
5 18 and not a party to the within action; my business address is 600 Anton Boulevard,
6 Suite 1400, Costa Mesa, California 92626-7689.7 On September 9, 2008, I served, in the manner indicated below, the foregoing
8 document described as **DECLARATION OF NATHAN W. HICKS IN
SUPPORT OF KYAN FLYNN, MECHELLE BONILLA AND CARLYN
LINDSTEN'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT, OR, IN
THE ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT** on
9 the interested parties in this action by placing true copies thereof, enclosed in sealed
envelopes, at Costa Mesa, addressed as follows:

10 Chad McKinney 6266 Madeline Street, Apt. #61 11 San Diego, CA 92115	12 Plaintiff, Pro Se Tel: (619) 634-3566 13 14 TRACKING # 798508102292
15 United States District Court Attention: Hon. Judge William Q. Hayes Courtroom 4 940 Front Street, Room 4290 16 San Diego, CA 92101-8900	17 Courtesy Copy Tel: (619) 557-5600 18 19 TRACKING # 792104054237

20 I am employed in the office of a member of the bar of this court at whose direction
21 the service was made.22 **BY FEDERAL EXPRESS:** I caused such envelopes to be delivered by air
23 courier, with next day service, to the offices of the addressees. (C.C.P. §
24 1013(c)(d)).25 I declare that I am employed in the office of a member of the bar of this court at
26 whose direction the service was made.

27 Executed on September 9, 2008, at Costa Mesa, California.

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Anh Dufour